



OFFICE OF ADMINISTRATIVE HEARINGS

State of California

SPECIAL EDUCATION DIVISION

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Department of General Services

SPECIAL EDUCATION DIVISION
QUARTERLY REPORT
AMENDED FIRST QUARTER 2007/2008 FISCAL YEAR ¹
July 1, 2007 – September 30, 2007
SECOND QUARTER 2007/2008 FISCAL YEAR
October 1, 2007 – December 31, 2007

¹ The first quarter report for fiscal year 2007-2008 was the first report created using data tracked through our newly implement case management system. In reviewing the reports, some errors in data collection were noted. This report corrects those errors as well as provides fiscal year information for the second quarter. An * is used to identify areas where first quarter data has been corrected.

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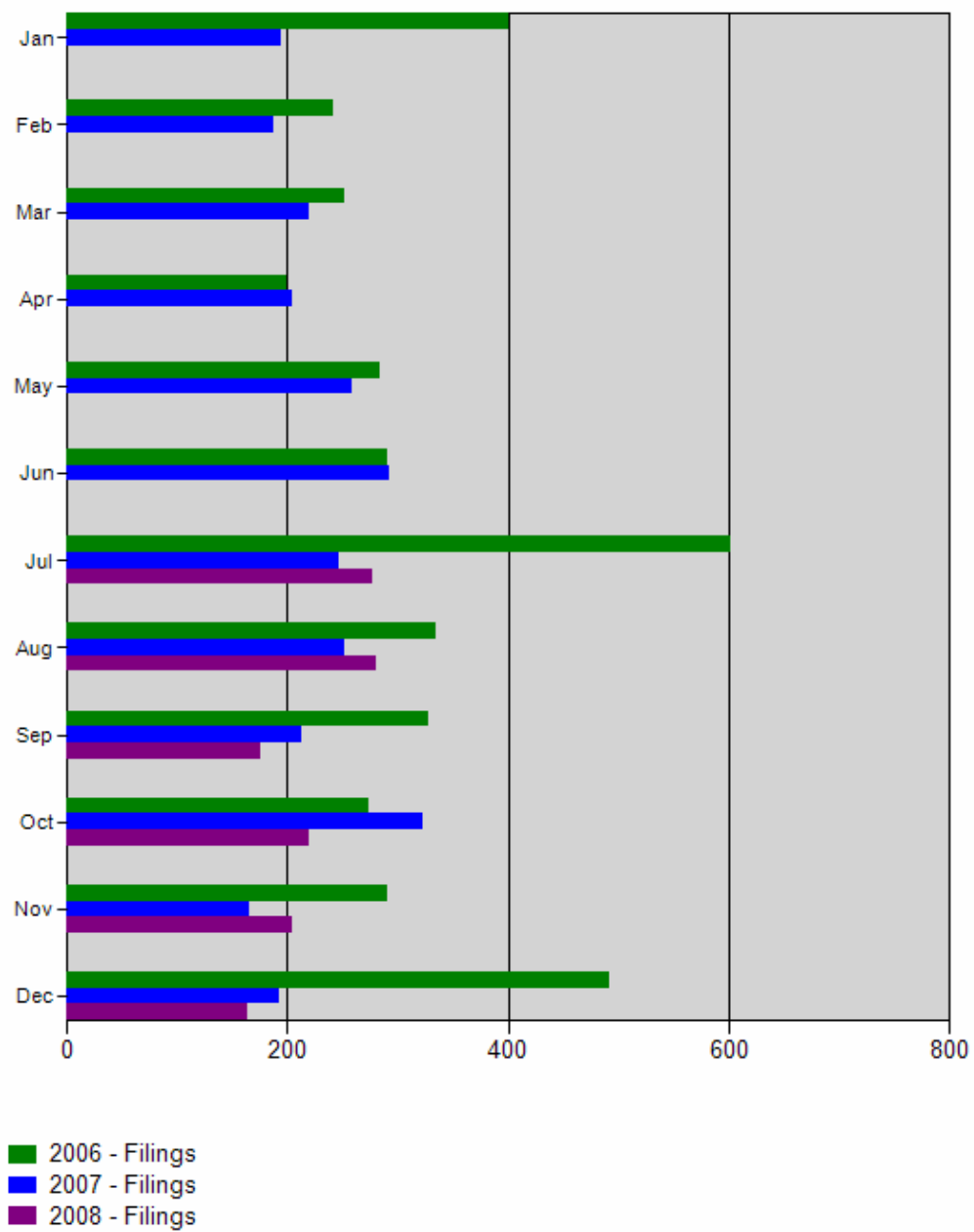
CASE FILINGS

During the second quarter for fiscal year 2007-2008, the Office of Administrative Hearings (OAH) received 587 new case filings. Case filings decreased by 93 cases over those filed during the second quarter fiscal year 2006-2007. For the current fiscal year, case filings have decreased by 71 cases over those filed for the first half of last fiscal year.

Fiscal Year 2005-2006²	Filings	Fiscal Year 2006-2007	Filings	Fiscal Year 2007-2008	Filings
Jul, 2005	600	Jul, 2006	247	Jul, 2007	277
Aug, 2005	335	Aug, 2006	251	Aug, 2007	279
Sep, 2005	329	Sep, 2006	212	Sep, 2007	176
Oct, 2005	274	Oct, 2006	322	Oct, 2007	219
Nov, 2005	289	Nov, 2006	166	Nov, 2007	205
Dec, 2005	492	Dec, 2006	192	Dec, 2007	163
Jan, 2006	401	Jan, 2007	194		
Feb, 2006	266	Feb, 2007	188		
Mar, 2006	251	Mar, 2007	220		
Apr, 2006	200	Apr, 2007	206		
May, 2006	284	May, 2007	258		
Jun, 2006	291	Jun, 2007	292		
Total Filings	4012	Total Filings	2748	Total Filings	1319

² This was the initial year OAH held the contract with the California Department of Education to conduct special education due process hearings. The case filings for fiscal year 2005-2006 are artificially inflated due to the number of cases in “off-calendar” status which were transferred to OAH from the Special Education Hearing Office, the previous contract holder, for resolution.

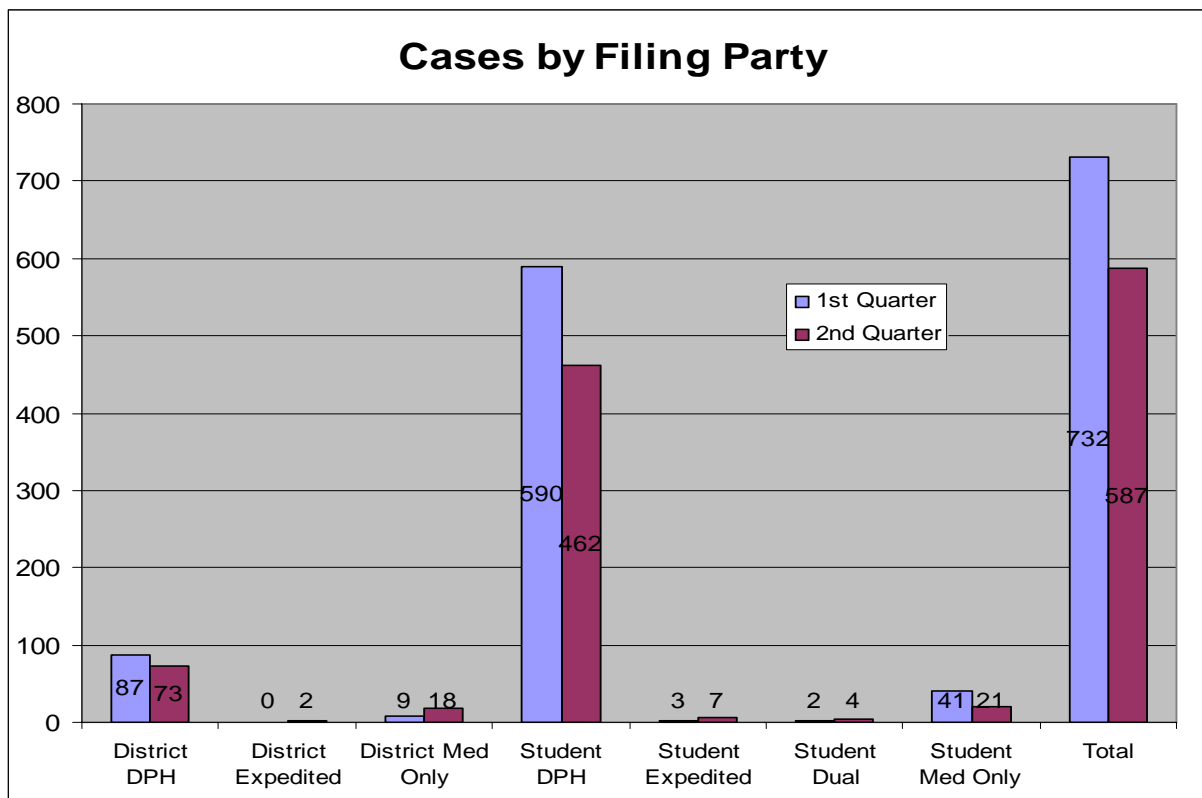
Matters filed – Month to Month Comparison



Cases by Filing Party

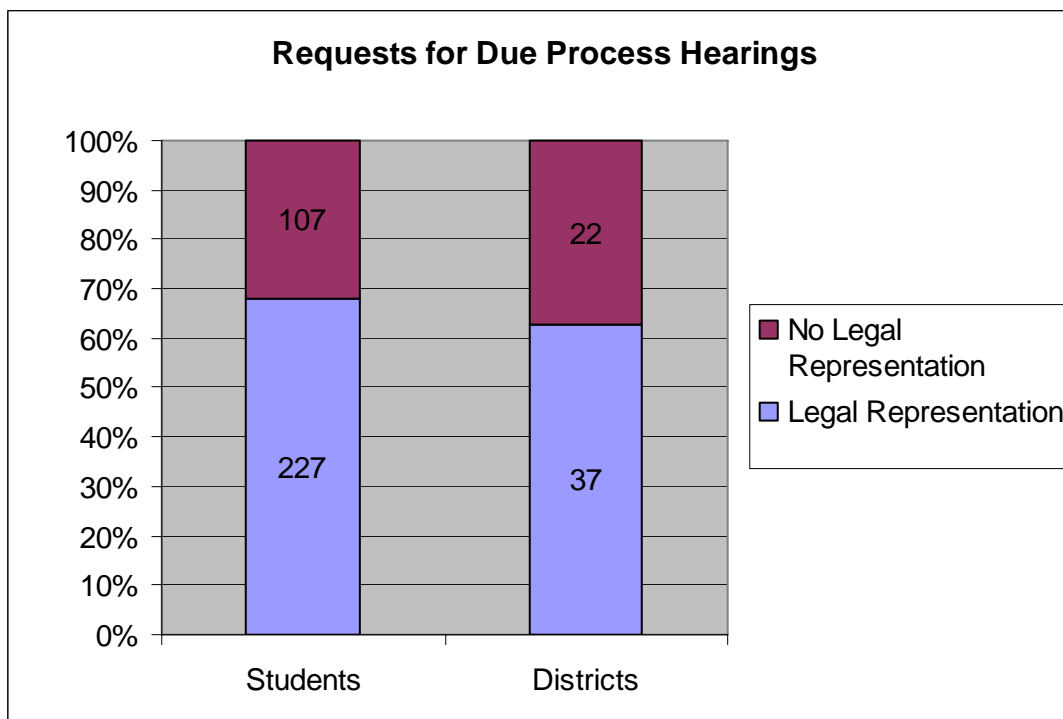
Overall, the cases filed are comprised of 462 student filed cases, 73 district filed cases, seven student filed expedited hearings, two district filed expedited hearings, and four student filed cases involving expedited and non-expedited issues (dual hearings). Additionally, the total case filings include 21 student filed and 18 district filed prehearing mediation only requests.

Case Type	1 st Quarter	2 nd Quarter	Year to Date
District DPH	87	73	160
District Expedited	0	2	2
District Med Only	9	18	27
Student DPH	590	462	1052
Student Expedited	3	7	10
Student Dual	2	4	6
Student Med Only	41	21	62
Total	732	587	1319



Legal Representation

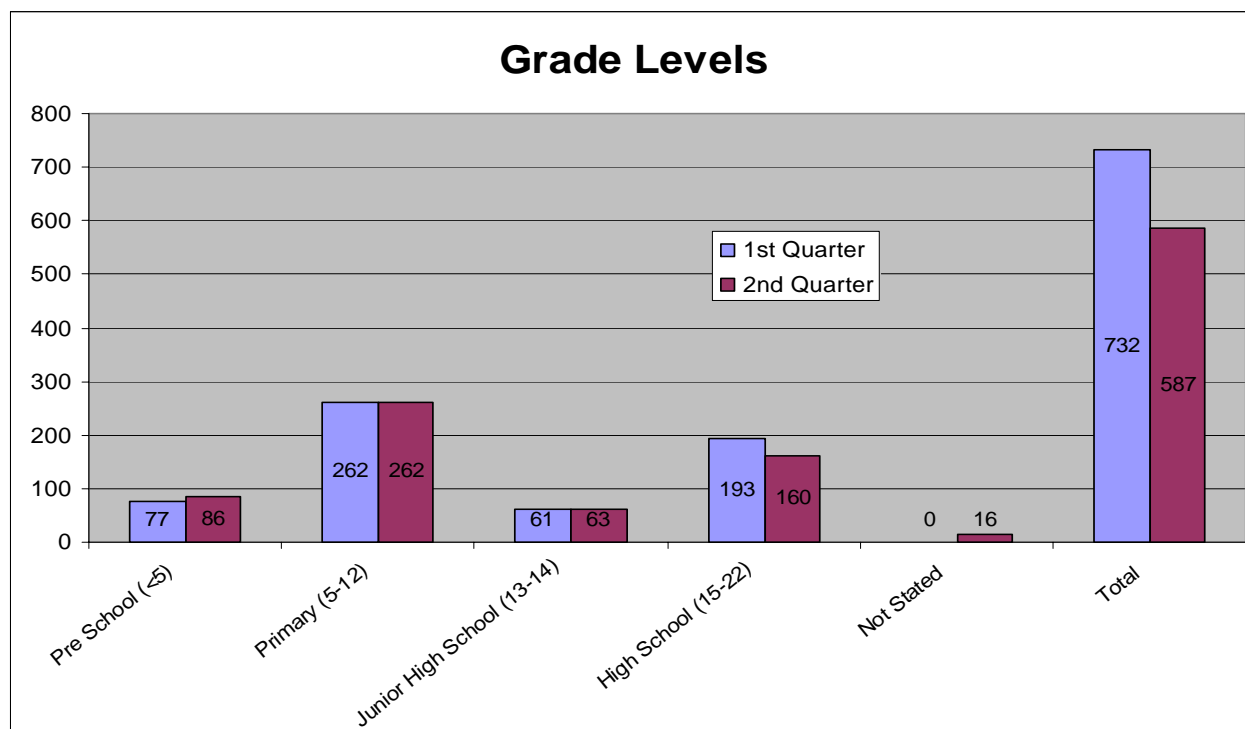
The requests for due process hearing for students were filed with legal representation in 68 percent of student filed cases (334 cases). The requests for due process hearing for districts were filed with legal representation in 63% percent of cases (59 cases).



Grade Level

The majority of cases originated from students in the primary grades (262 cases) followed by those in high school (160 cases), preschool (86 cases), and junior high school (63 cases). Data on the grade level of the student was not specified in 16 of the case filings.

Grade Level	1 st Quarter*	2 nd Quarter	Total
Pre School (<5)	77	86	163
Primary (5-12)	262	262	524
Junior High School (13-14)	61	63	124
High School (15-22)	193	160	353
Not Stated	139	16	155
Total	732	587	1319

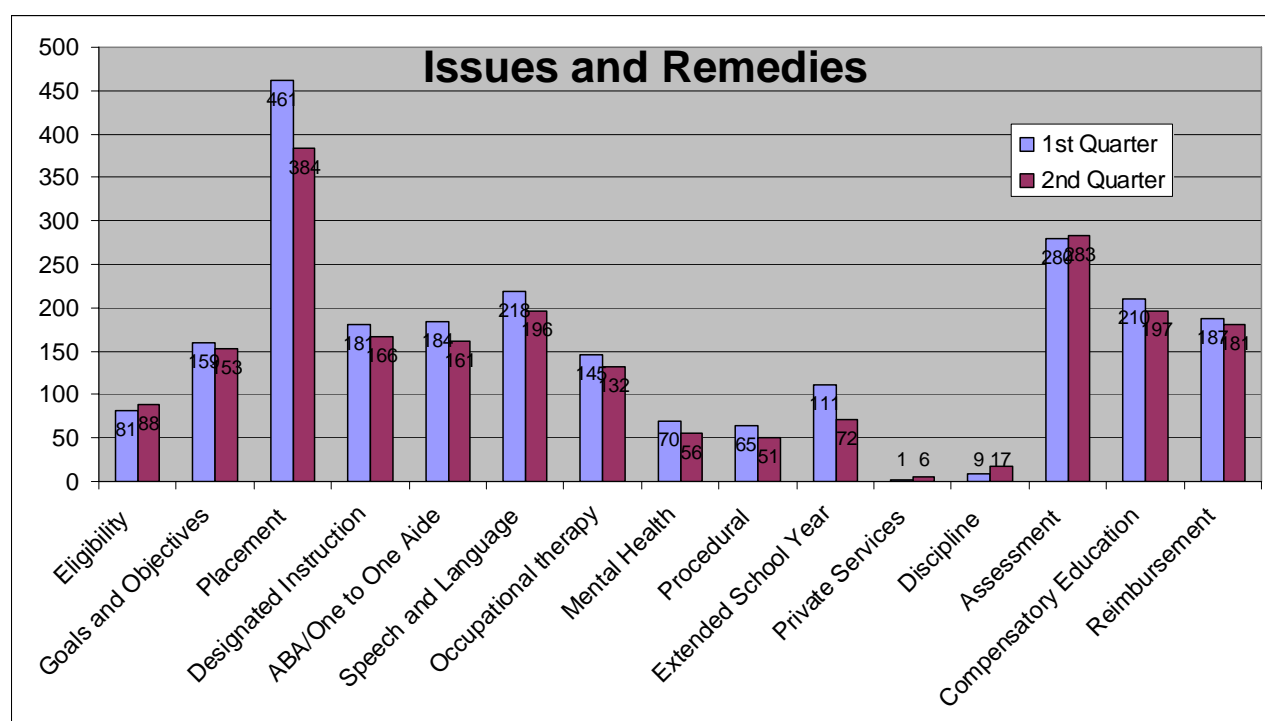


Issues and Remedies

Most cases filed this quarter raised a variety of issues and requested remedies. The number of issues raised varied per case, with some cases only raising one issue and others raising several issues. The most common issues raised were placement (384 cases) and assessment (283 cases). Other issues included: speech and language services (196 cases), designated instruction and services (166 cases), ABA or one-to-one aide services (161 cases), goals and objectives (153 cases), occupational therapy services (132 cases), eligibility (88 cases), extended school year services (72 cases), mental health services (56 cases), procedural violations (51 cases), discipline (17 cases), and private services (6 cases). Compensatory education was requested as a remedy in 197 cases and compensatory education was requested as a remedy in 181 cases.

Issue	1 st Quarter*	2 nd Quarter	Year to Date
Eligibility	134	88	222
Goals and Objectives	222	153	375
Placement	628	384	1012
Designated Instruction	181	166	347
ABA/One to One Aide	184	161	345
Speech and Language	218	196	414

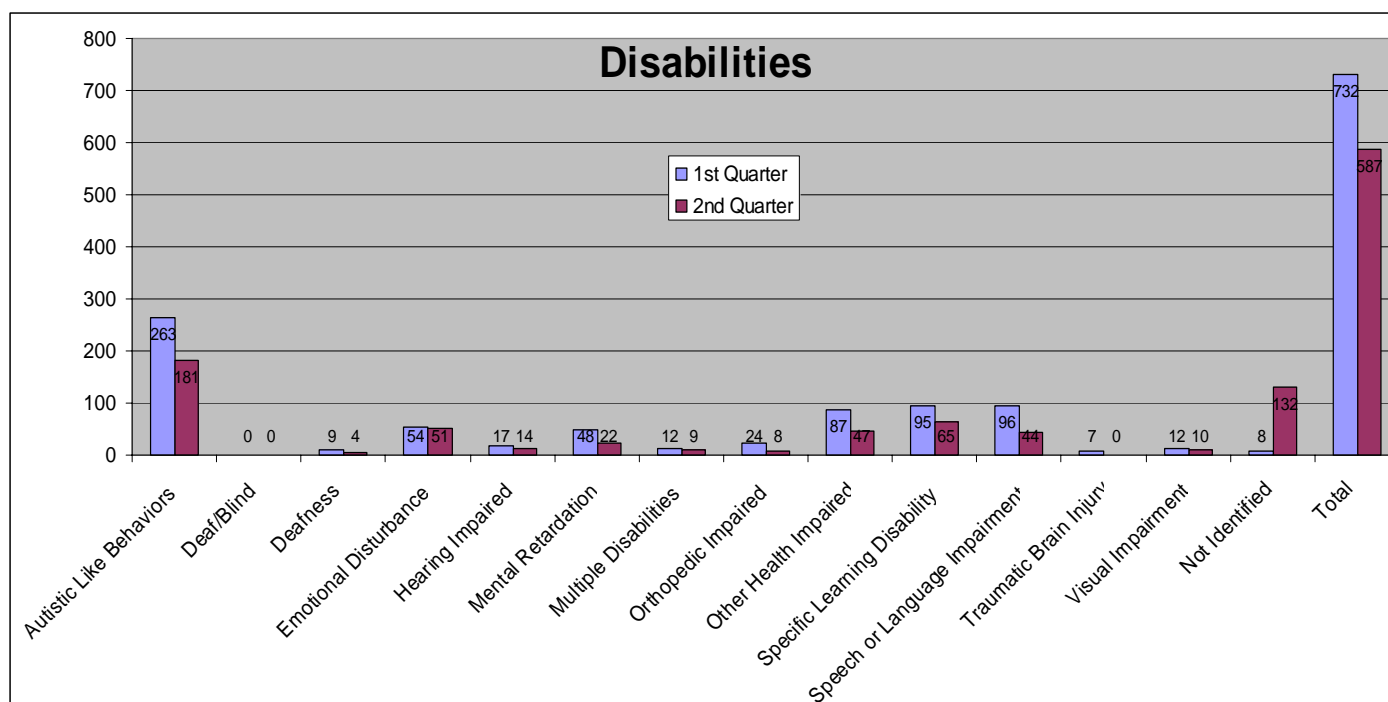
Occupational therapy	145	132	277
Mental Health	91	56	147
Procedural	105	51	156
Extended School Year	150	72	222
Private Services	21	6	27
Discipline	20	17	37
Assessment	421	283	704
Compensatory Education	306	197	503
Reimbursement	254	181	435



Eligibility Category

The majority of cases involved students identified as under the eligibility category of autistic-like behaviors (181 cases). Other identified areas of eligibility included: Specific Learning disability (65 cases), Emotional Disturbance (51 cases), Other Health Impaired (47 cases), Speech and Language disorder (44 cases), Mental Retardation (22 cases), Hearing Impairment (14 cases), Visually Impaired (10 cases), Multiple Disabilities (9 cases), orthopedic impairment (8 cases) and Deaf (4 cases). The student's area of eligibility was not identified in 132 cases.

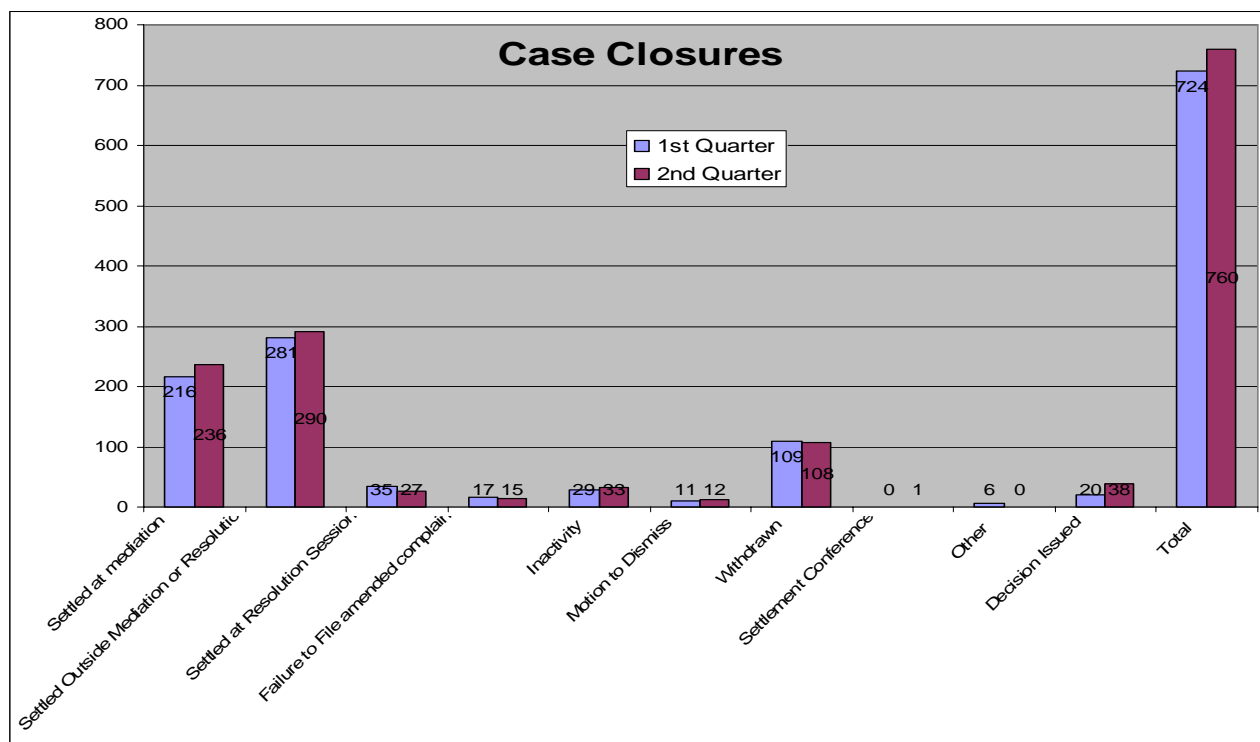
Eligibility Area	1 st Quarter	2 nd Quarter	Total
Autistic Like Behaviors	263	181	444
Deaf/Blind	0	0	0
Deafness	9	4	13
Emotional Disturbance	54	51	105
Hearing Impaired	17	14	31
Mental Retardation	48	22	70
Multiple Disabilities	12	9	21
Orthopedic Impaired	24	8	32
Other Health Impaired	87	47	134
Specific Learning Disability	95	65	160
Speech or Language Impairment	96	44	140
Traumatic Brain Injury	7	0	7
Visual Impairment	12	10	22
Not Identified	8	132	140
Total	732	587	1319



CLOSED CASES

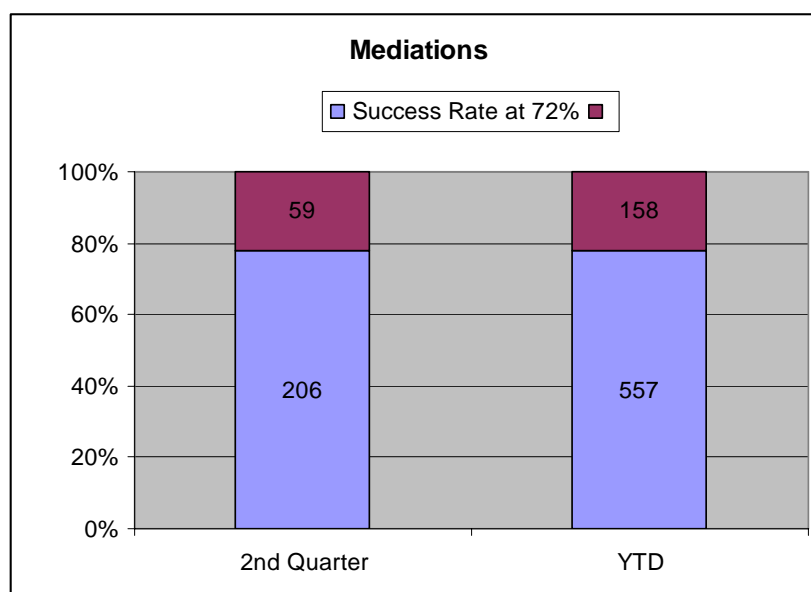
During this Quarter, 760 cases were closed. Currently, 645 matters remain pending. Overall this quarter, 95 percent of cases resolved in some manner without need for a due process hearing. For the fiscal year to date, 96 percent of cases have resolved without need for a due process hearing. The majority of cases resolved outside the mediation or resolution session process (290 cases), followed by those resolved during mediation (236 cases), and those resolved during the resolution session (27 cases). A number of cases (108 cases) were withdrawn by the filing party without explanation. Additionally, 12 cases were dismissed via a motion to dismiss, 15 cases were dismissed after failing to amend following a notice of insufficiency, 33 cases were dismissed due to inactivity, and 1 case was settled during a settlement conference. Lastly, 38 cases were closed following a full hearing and decision on the merits.

Reason for Closure	1 st Quarter	2 nd Quarter	Total
Settled at mediation	216	236	452
Settled Outside Mediation or Resolution	281	290	571
Settled at Resolution Session	35	27	62
Failure to File amended complaint	17	15	32
Inactivity	29	33	62
Motion to Dismiss	11	12	23
Withdrawn	109	108	217
Settlement Conference	0	1	1
Other	6	0	6
Decision Issued	20	38	58
Total	724	760	1484



Mediations

This quarter 206 mediations were held. Of the 206 mediations held, 59 resulted in impasse resulting in a 72% mediation success rate. For the current fiscal year, the mediation success rate is 72%.



Due Process Hearings

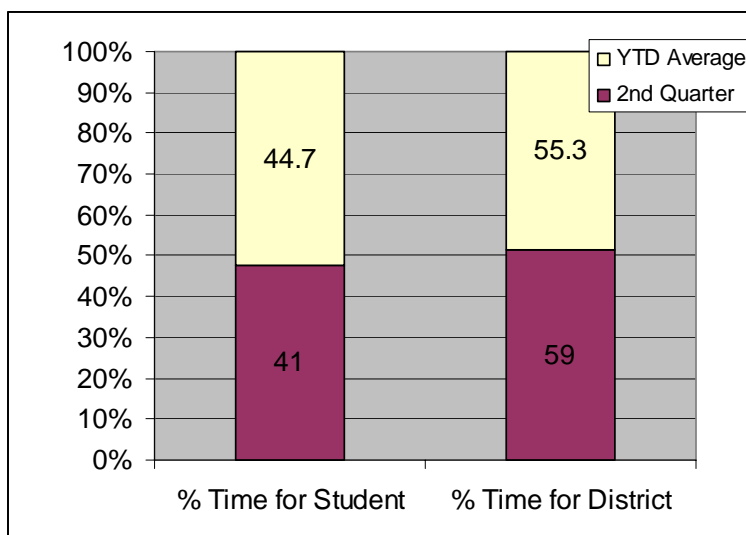
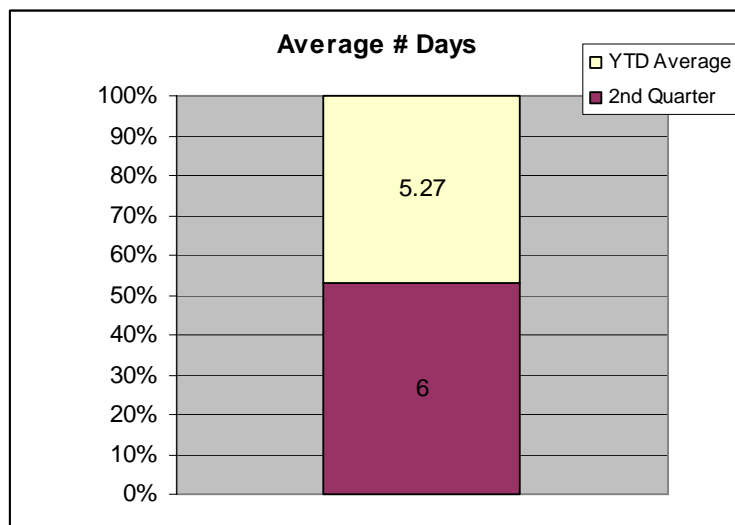
During this Quarter, final decisions were issued in 39 cases. Of the 39 decisions issued, 7 decisions were issued within the 45 day timeline, 31 were issued within the 45 day timeline plus extension, and one was issued late. Overall, this quarter, 97 percent of decisions were issued within the requisite timeline. For the current fiscal year, OAH has issued 59 decisions and 97 percent of decisions have been issued within the requisite timelines.

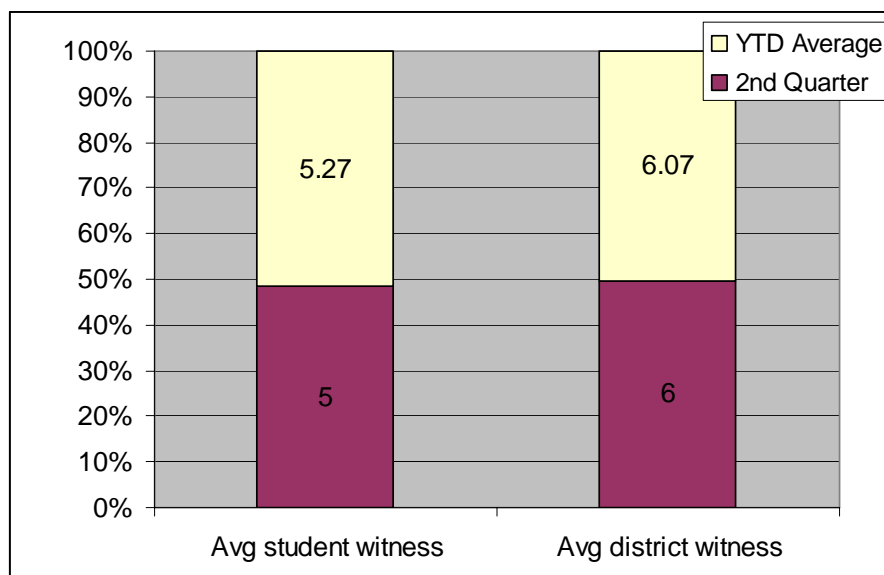
For the decisions issued this quarter, students prevailed in 4 hearings (10 percent) and districts prevailed in 17 hearings (44 percent). In 18 cases (46 percent), the decision was split between student and district with students prevailing on 39 issues and districts prevailing on 92 issues. For the current fiscal year, students have prevailed in 5 hearings (8 percent), districts have prevailed in 29 hearings (49 percent), and 25 cases (43 percent) resulted in a split decision. Copies of all decisions have been provided to CDE and were posted on the OAH website.

Of the decisions issued, 1 case involved a preschool student, 17 cases involved elementary school students, 8 cases involved middle school students, and 13 cases involved high school students.

On average the due process hearings lasted 6 days with students using 41 percent of the hearing for presentation of their case and districts using 59 percent of hearing time for case presentation. During case presentation, students called an average of 5 witnesses per case and districts called an average of 6 witnesses per case.

Category	1 st Quarter	2 nd Quarter	YTD Average
Average # days	3.9	6	5.27
% Time for Student	51.6	41	44.7
% Time for District	48.4	59	55.3
Avg student witness	5.8	5	5.27
Avg district witness	6.2	6	6.07





Multiple areas of disability were represented at hearing. The greatest number of cases involved students identified with autistic-like behaviors (14 cases) followed by students identified with a specific learning disability (10 cases).

Disability Area	1 st Quarter	2 nd Quarter	YTD
Autistic Like Behaviors	8	14	22
Deaf/Blind	0	0	0
Deafness	0	1	1
Emotional Disturbance	0	5	5
Hearing Impaired	0	0	0
Mental Retardation	0	1	1
Multiple Disabilities	0	1	1
Orthopedic Impaired	0	0	0
Other Health Impaired	2	4	2
Specific Learning Disability	7	10	17
Speech or Language Impairment	2	2	4
Traumatic Brain Injury	0	0	0
Visual Impairment	0	1	1
Not Identified	1	0	5
Total	20	39	59

Expedited Hearing Requests

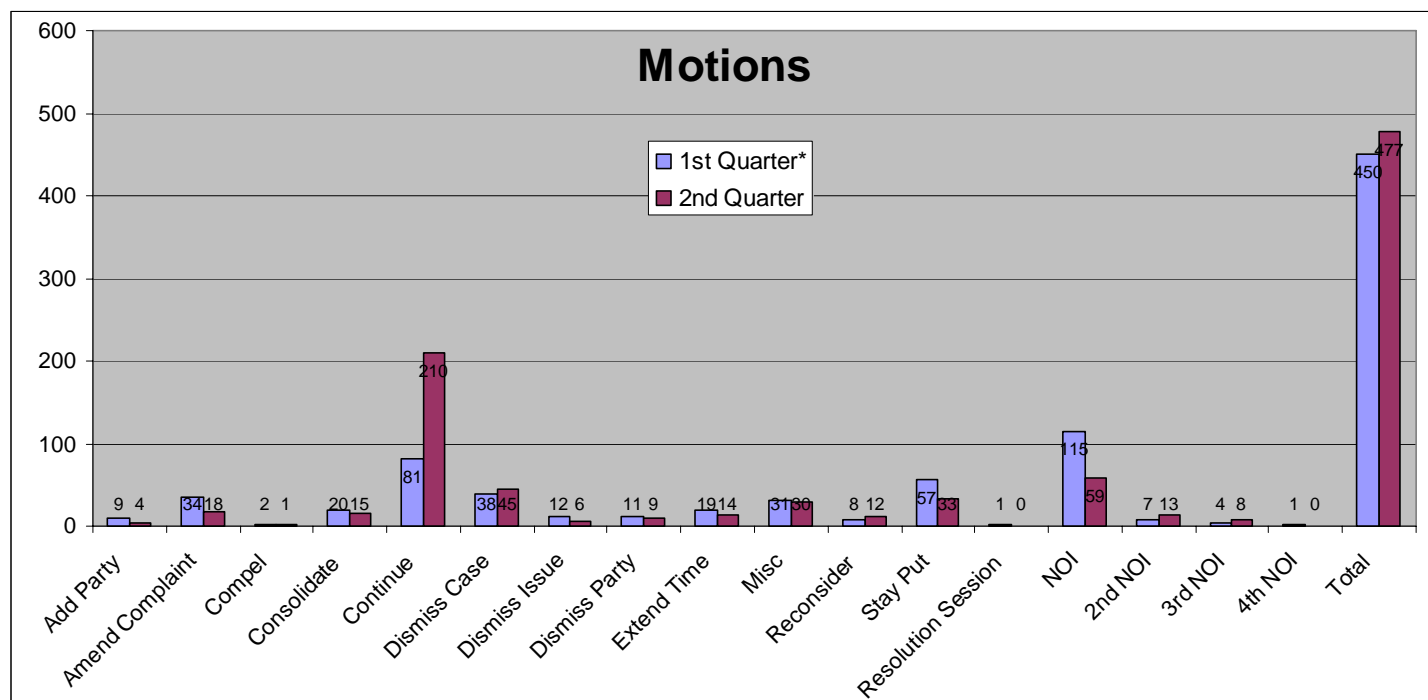
For this quarter, OAH received 10 requests for expedited hearings. All cases were resolved without a hearing. For the current fiscal year, all expedited matters have resolved without a due process hearing.

Motions

Prehearing motions and Notices of Insufficiency (NOI) comprise a substantial amount of the work completed by administrative law judges. For this quarter, 412 prehearing motions and 89 NOIs were considered and ruled upon by OAH.

The prehearing motions encompassed a variety of issues with the largest number involving motions to continue (209 motions).

Motion Type	1 st Quarter*	2 nd Quarter	Year to Date Total
Add Party	9	4	13
Amend Complaint	34	18	52
Compel	2	1	3
Consolidate	20	15	35
Continue	81	210	291
Dismiss Case	38	45	83
Dismiss Issue	12	6	18
Dismiss Party	11	9	20
Extend Time	19	14	33
Misc	31	30	61
Reconsider	8	12	20
Stay Put	57	33	90
Resolution Session	1	0	1
NOI	115	59	174
2 nd NOI	7	13	20
3 rd NOI	4	8	12
4 th NOI	1	0	1
Total	450	477	927



There were 481 prehearing motions filed this quarter. Of those motions filed by districts, 76 were granted, 1 were granted in part and 45 were denied. Of those motions filed by students, 153 were granted, 4 were granted in part and 39 were denied. Of the 89 NOIs filed, 33 were found insufficient, 14 were partially sufficient, and 24 were sufficient.³

NON-ENGLISH SPEAKING STUDENTS AND INTERPRETERS

During this quarter, 43 non-English speaking students were identified through the due process hearing request forms.⁴

STUDENTS OF COLOR

CDE has requested OAH collect data on the number of “students of color accessing the system.” To facilitate this request, effective January 1, 2007, OAH amended its due process hearing request form to include this request. However, not all hearing requests are made using the OAH form. This quarter, 40 students self reported as being a “student of color” and 30 students self reported as not being a “student of color.” The remaining 597 students did not state if they are a “student of color.”

³ This quarterly report is the first report run using data collected entirely through OAH’s Practice Manager system. In preparing this report an error was found in the data related to the outcome of motions and NOIs. The data identified as pending will be reported at a later date.

⁴ This quarterly report is the first report run using data collected entirely through OAH’s Practice Manager system. In preparing this report an error was found in the data related to the number of type of interpreters used. This information will be provided in an amended report.

TRANSCRIPT REQUESTS AND APPEALS

This quarter, OAH received 38 requests for transcripts. Data on the number of appeals and appellate outcomes is collected on an ongoing basis. It includes all those cases that OAH was notified were appealed since July 2005. OAH did not receive notification of any additional appeals or changes to the status of the appeals listed below.

District Name	Case Number	Appeal Outcome
Alhambra USD	2006020312	Dismissed
Alvord USD	2005070955	Dismissed
Bonita USD	2006020528	Pending
Byron Union SD	2006030866	Pending
CA School for the Deaf	2005090646	Pending
Capistrano USD	2005090873	Withdrawn
Capistrano USD	2005070135	Decision Remanded ⁵
Capistrano USD	2005070363	Pending
Capistrano USD	2006100267	Pending
Chula Vista USD	2005060656, 2006010691	Pending
Compton USD	2005110837	Pending
Compton USD	2005070151	Dismissed
Corona Norco USD	2005070226	Dismissed
Covina-Valley USD	2005060599	Dismissed
Downey USD	2005070522	Withdrawn
Downey USD	2005070481	Withdrawn
Dublin USD	2006060896	Pending
Escondido UHSD	2006070791, 2006051042	Pending
Fremont USD	2006050433	Pending
Garden Grove USD	2005090691	Withdrawn
Gateway USD	2005080397	Withdrawn
High Tech Middle Media	2006090461	Pending
Huntington Beach USD	2005080264	Pending
Kern HSD	2005070832	Dismissed
Long Beach USD	2005070425	Pending
Long Beach USD	2005070442	Pending
Long Beach USD	2005070128	Pending

⁵ Reversed in part OAH's decision and remanded to OAH to determine the remedy in the form of appropriate reimbursement for educational services.

Long Beach USD	2005080935	Pending
Los Altos SD	2005070166	Dismissed
Los Angeles USD	2006050447	Pending
Los Angeles USD	2006010083	Decision Remanded
Los Angeles USD	2006010962	Pending
Los Angeles USD	2005090882	Decision Reversed in Part ⁶
Los Angeles USD	2005110113	Withdrawn
Los Angeles USD	2005070253	Dismissed
Monrovia USD	2006030450	Pending
Newport-Mesa USD	2005100636	Withdrawn
Oakley Union ESD	2006100061	Pending
Orange USD	2005070130	Pending
Pajaro Valley USD	2005120162	Pending
Pajaro Valley USD	2005120162	Pending
Palm Springs USD	2006010564	Dismissed
Placentia-Yorba Linda USD	2005071105	Upheld OAH's Decision
Placentia-Yorba Linda USD	2006010306	Pending
Pomona USD	2006010049	Pending
Pomona USD	2005070523	Reversed OAH's Decision
Poway Unified	2005080077	Pending
Poway USD	2005120568, 2005120386 2005090003, 2005090004	Pending
Reed Union SD	2006020660	Withdrawn
Riverside USD	2005110775	Pending
Rocklin USD	2006110278	Pending
Saddleback Valley USD	2005070193	Pending
San Diego USD	2006020294	Pending
San Diego USD	2005100882	Pending
San Luis Coastal USD	2005070205	Pending
San Luis Coastal USD	2005080655	Pending
San Luis Coastal USD	2007010836	Pending
San Mateo UHSD	2006070550	Pending
San Ramon Valley USD	2005110307	Dismissed
San Ramon Valley USD	2005071028	Pending

⁶ Reversed OAH's decision only as to prospective relief and awarded Student approximately three weeks' reimbursement for behavior support services from a specific provider.

San Ramon Valley USD	2006050839	Withdrawn
San Ramon Valley USD	2005071032	Pending
San Ramon Valley USD	2005071031	Upheld OAH's Decision
San Ramon Valley USD	2005070815	Withdrawn
Santa Ana USD	2005090037	Upheld OAH's Decision
Santa Maria USD	2006070104	Pending
Sequoia Union HSD	2006120087	Pending
Simi Valley USD	2006090233	Pending
Snowline Joint USD	2005100716	Pending
Sylvan Union SD	2006030058	Pending
Temecula Valley	2005070197	Dismissed
Torrance USD	2005110591	Pending
Torrance USD	2006030068	Pending
Torrance USD	2007010830	Pending
Tustin USD	2005090544	Pending
Upland USD	2005110360	Pending
Yucaipa-Calimesa USD	2005070042	Decision Remanded ⁷
Yucaipa-Calimesa USD	2005070683	Dismissed

MEDIATION AND HEARING EVALUATIONS

Under its contract with CDE, OAH is required to send evaluations to all parties attending mediations and hearings. The evaluations contain a 1 through 5 rating scale with 1 being Poor/Very dissatisfied and 5 being Excellent/extremely satisfied. The evaluations ask the parties to evaluate the mediation, the administrative law judge and OAH in general.

This quarter, 493 mediation evaluations were returned to OAH. Evaluations were completed by parents (98 cases), legal counsel for parents (40 cases), parent advocates (5 cases), school district representatives (139 cases), and legal counsel for district (44 cases). In 167 cases, the evaluator did not indicate their role in the mediation.

AVERAGE MEDIATION RATING - 4.16

⁷ Stayed proceeding and remanded to OAH for ALJ to explain whether it considered District's evidence in determining that District denied Student a FAPE and did not conduct an assessment.

	Quarterly Average	Year to Date Average
Started mediation on time	4.10	4.18
Explained Satisfactorily the mediation process	4.26	4.30
Was well prepared for mediation	4.08	4.31
Directed the mediation process effectively	4.05	4.07
Facilitated discussions between the parties	4.00	4.02
Remained neutral through the mediation	4.08	4.14
Maintained the confidentiality of the parties	4.33	4.38
Acted in a courteous and respectful manner	4.42	4.42
Exhibited knowledge of special education law	4.08	4.16
Average	4.16	4.22

This quarter, 39 hearing evaluations were returned to OAH. Evaluations were completed by parents (5 cases), legal counsel for parents (4 cases), student advocates (11 cases), school district representatives (1 case), and legal counsel for district (9 cases). In 9 cases, the evaluator did not indicate their role in the hearing.

AVERAGE HEARING RATING – 4.15

	Quarterly Average	Year to Date Average
Punctual in starting the hearing	4.39	4.30
Well-prepared for the hearing	4.18	4.13
Courteous to the participants	4.58	4.31
Attentive to testimony and arguments	4.29	4.27
Careful in making the record	4.42	4.27
Allowed the parties to explain their case	4.32	4.26
Efficient in the use of hearing time	4.40	4.14
Avoided apparent bias based upon gender, race, or ethnicity	4.54	4.51
Treated all participants professionally and fairly	4.24	4.20
Avoided over-familiarity with the school district	4.23	4.23
Avoided over-familiarity with the parents	4.47	4.45
Did not pre-judge the case	4.05	3.99
Did not allow personal beliefs to influence the outcome	3.66	3.59
Did not permit ex parte contacts	4.02	4.17

Exerted control during the hearing	4.37	4.26
Exhibited knowledge of special education law	3.66	3.70
Applied rules of procedure appropriately	4.03	3.94
Applied rules of evidence appropriately	3.92	3.85
Decided the case based upon the evidence	3.62	3.74
Prepared a Decisions that resolved each issue presented	4.05	4.02
Prepared a decision that was clear and concise	3.81	3.84
Average	4.15	4.10